

the Office of Design and Engineering Standards (G-MSE-4), Coast Guard, telephone 202-267-1861. For questions on viewing, or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

#### SUPPLEMENTARY INFORMATION:

##### Requests for Comments

The Coast Guard encourages you to submit comments and related material on the proposed rules concerning fire-suppression systems and voyage planning for towing vessels. If you do so, please include your name and address, identify the docket number [USCG-2000-6931] and give the reasons for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

##### Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to seek special assistance at the meeting, contact Mr. Eberly at the address or phone number under **FOR FURTHER INFORMATION CONTACT** as soon as possible.

##### Background Information

The SNPRM on "Fire-Suppression Systems and Voyage Planning for Towing Vessels" [USCG-2000-6931] was published in the **Federal Register** November 8, 2000 [65 FR 66941]. It proposes the installation of fixed fire-extinguishing systems in the engine rooms of towing vessels, and it proposes that owners or operators, and masters, ensure that voyage planning is conducted before vessels towing barges get under way on trips or voyages of at least 12 hours. Towing vessels that engage only in assistance towing, pollution response, or fleeting duties in limited geographical areas would be exempt from the measures in this SNPRM. The SNPRM stems from the incident on January 19, 1996, when the tugboat SCANDIA, with the tank barge NORTH CAPE in tow, caught fire five miles off the coast of Rhode Island.

Crewmembers could not control the fire and, without power, they were unable to prevent the barge carrying 4 million gallons of oil from grounding and spilling about a quarter of its contents into the coastal waters. The spill led Congress to amend the law to permit the Secretary of Transportation—"in consultation with the Towing Safety Advisory Committee" (TSAC)—to require fire-suppression and other measures on all towing vessels. The measures outlined in the SNPRM would likely decrease the number and severity of injuries to crews, prevent damage to vessels, structures, and other property, and protect the environment.

On February 8, 2001, a public meeting concerning the SNPRM was held in Washington, DC (as announced in the **Federal Register** on December 28, 2000 [65 FR 82303]). On February 23, 2001, we announced in the **Federal Register** that we were extending the comment period for the SNPRM to May 8, 2001 [66 FR 11241]. Several comments to the docket sought another public meeting, in Huntington, West Virginia. The Coast Guard agrees with those comments, so we are planning to hold the meeting announced by this notice.

##### Public Meeting

The Coast Guard encourages interested persons to attend the meeting and present oral comments during the meeting. The meeting is open to members of the public. Please note that the meeting may close early if all business is finished. If you would like to present an oral comment during the meeting, please notify Mr. Eberly at the address given under **FOR FURTHER INFORMATION CONTACT** no later than August 8, 2001. If you are unable to attend the meeting, you may submit comments as indicated under **SUPPLEMENTARY INFORMATION**.

Dated: July 2, 2001.

**Joseph J. Angelo,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

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**BILLING CODE 4910-15-U**

## POSTAL SERVICE

### 39 CFR Part 111

#### Delivery of Mail To a Commercial Mail Receiving Agency

**AGENCY:** Postal Service.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** This proposed rule revises the Postal Service's regulations that govern

procedures for delivery of an addressee's mail to a commercial mail receiving agency (CMRA). Under this proposed rule, procedures are provided to identify when a corporate executive center (CEC) or a part of its operation is considered a commercial mail receiving agency for purposes of these standards. This proposal revises a proposed rule published on February 2, 2000 (65 FR 4918). As a result of public comment to that rulemaking, discussed later, that proposal is rescinded and revised procedures are proposed to change the terminology from "corporate executive center" (CEC) to "office business center" (OBC). The Postal Service is also proposing revisions to the original proposed rule concerning the dollar test that was proposed, as well as proposing several other changes. The proposed rule will identify when an OBC or a part of its operations is considered a commercial mail receiving agency.

**DATES:** Comments must be received on or before August 10, 2001.

**ADDRESSES:** Written comments should be mailed to Manager, Delivery Operations, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 7142, Washington, DC 20260-2802. Comments by email or fax will not be accepted. Copies of all written comments will be available for inspection and copying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Roy E. Gamble, 202-268-3197.

**SUPPLEMENTARY INFORMATION:** On March 25, 1999, the Postal Service published a final rule in the **Federal Register** (64 FR 14385) amending sections D042.2.5 through D042.2.7 of the Domestic Mail Manual (DMM) to update and clarify procedures for delivery of an addressee's mail to a commercial mail receiving agency. The final rule provided procedures for registration to act as a CMRA; an addressee to request mail delivery to a CMRA; and delivery of the mail to a CMRA. This rule was applicable to all businesses that provide agent-mailing services to their customers; that is, the business receives delivery of mail for others from the Postal Service at a CMRA address.

As explained in the February 2000 notice of proposed rulemaking (NPRM), a "corporate executive center" (CEC) is a business that operates primarily to provide private office facilities and business support services to individuals or firms (CEC customers). These CEC customers also may receive mail at the CEC address. CECs also may have customers that do not occupy a private office and use the CEC address

primarily to receive mail and other business support services. These CEC customers receive services similar to those a CMRA provides to its customers. For this reason, a number of parties have asserted that these customers and the CECs serving them should follow the same procedures as CMRAs and their customers. The Postal Service agrees with these suggestions.

A CEC and industry representatives requested that the Postal Service provide guidelines to determine when a CEC is considered a CMRA for postal purposes; that is, when a CEC and its customers must follow the DMM rules governing the operation of CMRAs. Before publishing the February 2000 proposal, the Postal Service met with the parties to seek a consensus. There was general agreement that CEC customers who occupy a private office on a full-time basis at the CEC should not be considered CMRA customers for postal purposes. There was also general agreement that CEC customers who receive mail service (or mail and business support services) without the right to occupy private office space at the CEC should be considered CMRA customers for postal purposes. The difficult question arises when the CEC customer is entitled, in addition to mail and business support services, to private office space on a less-than-full-time basis. After discussions with the industry representatives, the Postal Service proposed an objective test based upon at least a \$125 fee paid per month for occupancy and related support services by the CEC customer.

Comments on the proposed rule were due on or before March 3, 2000. The Postal Service received a total of 118 comments. Of the total, 55 comments were from CEC customers, 29 comments were from CEC owners or franchisers, 10 comments were from CMRA owners, and one comment was from a special interest group. These comments were largely identical in content, and all supported the rules with reservations or proposed changes. The other 23 comments were received from CEC owners or franchisers, CMRA owners, and CEC and CMRA customers. A joint comment was submitted by 33 states and the District of Columbia, represented by their respective Attorneys General, with the exception of one state represented by its Secretary of State. These comments all opposed the proposed rules.

Several comments received that supported the February 2 NPRM rule expressed concern that because the CECs primarily operate a fundamentally different kind of business than do CMRAs, the CECs should be totally

exempt from the CMRA standards. These comments were based on an assertion that the CECs provide all the attributes of residency to customers who use their services. Some commenters supported the rule but did not feel it appropriate to give a CMRA designation to any part of a CEC; these commenters argued that the proposed CEC rule should be rescinded immediately. Some commenters supported a test based on a fee paid by the CEC customer, but argued that the fee should be indexed by market area or provide a range with \$125 as the upper limit. Some commenters stated that the fee should be lowered to \$100 because "business address" customers use CEC mail services and, on a flexible basis, their conference rooms. One CEC owner asserted the lower limit (\$125) for the services they offer is unrealistic because CEC customers have access to a "corporate" image.

Commenters opposing the rule expressed concern that the distinguishing difference appears to be the minimum \$125 fee. The extent of these comments expressed a wide range of concerns with the fee. One CMRA owner asserted the rule would exempt CEC "business address" customers from the CMRA rules and that both the CEC customer and the CMRA customer are buying the same image and, to set the cost of avoiding the CMRA rules at \$125 is discrimination. One CEC owner promised to take the Postal Service to court because "the USPS has no proper role in setting the terms of CEC service packages or the price they charge." Another CEC owner asserted that the rule as written would essentially govern how the industry describes and prices its services, thereby condoning and encouraging price fixing. One commenter expressed concern that the proposed definition will open a major loophole in the regulations for those who wish to avoid address and informational requirements associated with receiving CMRA services. One CMRA owner stated, "The CEC is also an industry that provides an avenue for receipt of mail without the individual being physically located and conducting business at the address. Apparently the post office believes that anyone willing and able to pay \$125 per month to receive mail at an address wouldn't be the kind of person who would perpetrate fraud. The USPS does not intend to reduce mail fraud but to regulate their closest competition out of business." Another commenter stated, "The standards should require that a CEC customer actually conduct business at the address."

The Postal Service does not believe it unreasonable to require CEC customers who receive mail and business support services similar to those provided by CMRAs to be considered CMRA customers for postal purposes. Indeed, were that not the case, CMRAs could argue that they were treated unfairly. The Postal Service only seeks to ensure that parties receiving similar services are treated in the same manner by the Postal Service. CEC customers that do not receive CMRA-type services are not considered CMRA customers for postal purposes under the proposal, and CECs that do not provide CMRA-type services to any customers will not be subject to the DMM rules governing CMRAs.

Some of the objections to the proposed \$125 fee standard appear to have been based on a misunderstanding of the proposal. The fee standard did not apply to situations where customers received only mail or related business support services other than private office occupancy. These parties were to be considered CMRA customers for postal purposes regardless of the fee paid to the CEC. Although the Postal Service understands that some CECs may have told customers that price increases were required by the Postal Service, there was no basis for that assertion or that the proposal would have constituted "price fixing." The proposal did not require CECs to charge customers any specific amount. Instead, it merely sought to base the determination on whether customers should be treated as CMRA customers for postal purposes on an objective combination of the services provided and the fees charged.

Based in part on the concerns expressed by commenters, the Postal Service has withdrawn the test proposed in the February 2000 rulemaking. The Postal Service met again with industry representatives to seek agreement on a different set of guidelines. This time, the discussion centered on the number of hours of occupancy of the private office to which the CEC customer was entitled in its agreement with the CEC. There was a wide range of opinions, even among CEC representatives, as to the appropriate test. For instance, one CEC representative suggested that a right to full-time occupancy be required, while another suggested that one hour per week on average would be appropriate. No consensus was reached.

After reviewing the points raised by the parties, the proposed guidelines in this NPRM are based on 16 hours of private office occupancy per month. That is, if the agreement between the CEC and its customer provides the right

to at least 16 hours of private office space per month (in addition to certain support services and other requirements), then that customer will not be considered a CMRA customer for postal purposes. We understand that the fees charged by CECs for services that include the right to at least 16 hours per month of private office occupancy will generally significantly exceed the fees charged by CMRAs and will ensure a meaningful distinction between CMRA and CEC customers. However, we were also mindful that the standard not be set too high. We believe that some customers use CECs because they are primarily interested in private office space, rather than CMRA-type services, but only need such space on a limited basis due to the nature of their businesses. We also note that this proposed test is based on private office space being set aside for 16 hours for a specific individual or firm, regardless of the actual hours that the individual or firm occupies the space. A test based on actual occupancy would be difficult to administer and would create a burden on CECs to maintain occupancy records. We have also proposed several other changes to the procedures of the original proposal and made other changes that are not substantive in nature.

During recent discussions, CEC representatives also proposed a change in terminology. They explained that the preferred terminology for their businesses is "office business center" or OBC. The Postal Service is incorporating the request in this NPRM.

Although exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. of 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.1.

**List of Subjects in 39 CFR Part 111**

Postal Service.

**PART 111—[AMENDED]**

1. The authority citation for 39 CFR Part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001 3011, 3201–3219, 3403–3406, 3621, 5001.

2. Section D042.2.0 of the Domestic Mail Manual is amended by adding subsection D042.2.8 to read as follows:

**D Deposit, Collection, and Delivery**  
**D000 Basic Information**

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*D040 Delivery of Mail*

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*D042 Conditions of Delivery*

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**2.0 DELIVERY TO ADDRESSEE'S AGENT**

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[Add new 2.8 to read as follows:]

**2.8 OBC Acting as a CMRA**

The procedures for an office business center (OBC) or part of its operation acting as a commercial mail receiving agency (CMRA) for postal purposes are as follows:

a. An OBC is a business that operates primarily to provide private office facilities and business support services to individuals or firms (customers). OBCs receive single point delivery. OBC customers that receive mail at the OBC address will be considered CMRA customers for postal purposes under the standards set forth in b. Parties considered CMRA customers under this provision must comply with the standards set forth in 2.5 through 2.7. An OBC must register as a CMRA and comply with all other CMRA standards if one or more customers receiving mail through its address is considered a CMRA customer.

b. An OBC customer is considered to be a CMRA customer for postal purposes if its written agreement with the OBC provides for mail service only or mail and other business services (without regard for occupancy or other services that the OBC might provide and bill separately). Additionally, an OBC customer receiving mail at the OBC address is considered to be a CMRA customer for postal purposes if each of the following is true:

(1) The customer's written agreement with the OBC does not provide for the full-time use of one or more of the private offices within the OBC facility; and

(2) The customer's written agreement with the OBC does not provide all of the following:

(A) The use of one or more of the private offices within the OBC facility for at least 16 hours per month;

(B) Full-time receptionists service and live personal telephone answering service during normal business hours and voice mail service after hours;

(C) A listing in the office directory, if available, in the building in which the OBC is located; and

(D) Use of conference rooms and other business services on demand, such as secretarial services, word processing, administrative services, meeting

planning, travel arrangements, and videoconferencing.

c. Notwithstanding any other standards, a customer whose written agreement provides for mail services only or mail and other business support services will not be considered an OBC customer (without regard for occupancy or other services that an OBC may provide and bill for on demand).

d. The Postal Service may request from the OBC copies of written agreements or any other documents or information needed to determine compliance with these standards. Failure to provide requested documents or information may be a basis for suspending delivery service to the OBC under the procedures set forth in 2.6f through h.

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An appropriate amendment to 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

**Stanley F. Mires,**

*Chief Counsel, Legislative.*

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**BILLING CODE 7710–12–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[TX–134–4–7503; FRL–7010–8]

**Proposed Approval and Promulgation of Implementation Plans; Texas; Non-Road Large Spark-Ignition Engines; Agreements With Airport Operators and Airlines Regarding Control of Pollution From Ground Support Equipment for the Houston/Galveston Ozone Nonattainment Area (HGA)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve revisions to the Texas State Implementation Plan. This rule making covers two separate actions. We are proposing approval of:

A rule requiring that non-road large spark-ignition engines of 25 horsepower (hp) or larger in all counties of the State of Texas conform to requirements identical to Title 13 of the California Code of Regulations, Chapter 9; and

Agreements requiring owners and operators at major airports in the HGA to bring about oxides of nitrogen (NO<sub>x</sub>) emission reductions for sources under their control.

This new rule and the agreements will contribute to attainment of the ozone standard in the HGA. The EPA is